

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10816 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MD MAKWANA

Versus

BAVLA NAGARPALIKA

Appearance:

None present for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/08/97

ORAL JUDGMENT

#. The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none put appearance for either of the parties. Perused the Special Civil Application.

#. In this Special Civil Application, notice was issued to the respondent on 9.9.94 returnable on 16.9.94. Then

on 6.12.94, the learned counsel for respondent prayed for time which has been granted. Again on 21.7.95, the learned counsel for respondent prayed for time which has been granted. Though more than three years have passed from the date of receipt of notice, reply to the Special Civil Application has not been filed by respondent and as such, the averments made in the Special Civil Application stand uncontroverted.

#. The father of the petitioner who was confirmed and permanent employee working on the post of Peon, died while in service on 15.3.94. The petitioner, on death of his father, submitted an application for giving him appointment on compassionate ground. He prayed for giving him appointment on compassionate ground in class IV cadre. This application has been filed by petitioner on 29th April 1994. No response has been received by the petitioner to the aforesaid application and as such another application has been submitted by him on 14th June 1994. That application also remained unreplied by respondent. Then comes the next application of petitioner dated 14th July 1994. However, that too remained unreplied by respondent. Hence this Special Civil Application by petitioner before this Court for directions to the respondent to give him appointment on compassionate ground in class IV service.

#. The claim of the petitioner for giving him appointment on compassionate ground has to be considered by respondent in accordance with law. They could not have sat over the matter by keeping silence on the applications filed by the petitioner from time to time. The petitioner is entitled for appointment on compassionate ground or not as per law is a different matter, but keeping the petitioner in dilemma is absolutely arbitrary and uncalled for from the respondent. Interest of justice will be met in case this Special Civil Application is disposed of with directions to the respondent to decide the applications aforesaid of the petitioner in accordance with law within a period of three months from the date of receipt of certified copy of this order. In case the petitioner is found eligible for appointment then the same shall be given to him. In case the petitioner cannot be given appointment on compassionate ground, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D.

#. The Special Civil Application and Notice therein stand disposed of in aforesaid terms with no order as to costs.

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